

THE HONOURABLE SRI JUSTICE V. ESWARAI AH

WRIT PETITION No.19432 OF 2007

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DATED: 08-10-2007

BETWEEN

Kolli Suresh Kumar,
S/o. Venkat Rao,
Occ: Agriculture,
R/o. Unikilli Village,
Mandavalli Mandal,
Krishna District and
another.

...PETITIONERS

AND

The District Collector,
Krishna District,
Machilipatnam and
two others.

...RESPONDENTS

ORDER:

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Petitioners submit that the third respondent issued D Form pattas in their favour to an extent of Ac.2.46 cents in Sy.No.17/3 and Ac.2.50 cents in Sy.Nos.16/1 & 17/1 respectively situated at Unikilli Village, Mandavalli Mandal, Krishna District, in the year 1985 and since then they have been in continuous possession and enjoyment of the said lands by cultivating the same. While so, the second respondent issued proceedings in Rc.D.2613/98 dated 09.06.1989 canceling D Form pattas granted in their favour along with several other persons. Aggrieved by the said action, the petitioners along with others filed W.P.No.9441 of 1989 and this Court by order dated 20.12.1996 disposed the writ petition on the ground that the said cancellation orders were passed

without giving any notice to the petitioners and therefore, the orders are passed against the principles of natural justice. Accordingly, while setting aside the impugned order, directed the petitioners to file their explanations, treating the impugned order as a show cause notice, within a period of two months from 20.12.1996. On filing such explanation, the second respondent shall dispose the matter in accordance with law, within a period of three months thereafter. In case, no explanation is filed, it is open to the authorities to proceed against the petitioners in accordance with law.

2. Pursuant to the said order, explanation was filed with a delay, and therefore, the second respondent passed an order in Rc.No.1654/94 dated 28.06.1997 duly canceling the D Form pattas granted in favour of petitioners. Questioning the said order, the petitioners and others filed W.P.No.16525 of 1997 and this Court by order dated 24.07.1997 allowed the writ petition setting aside the order of the second respondent in Rc.No.1654/94 dated 28.06.1997, on the ground that the Revenue Divisional Officer acted too much technically in not looking into the objections filed by the petitioners well before the impugned order dated 28.06.1997 i.e. on 18.03.1997 and accordingly, the second respondent was directed to consider and dispose the proceedings afresh after considering the objections filed by the petitioners on 18.03.1997.

3. Learned counsel appearing for the petitioners submits that the second respondent has not passed any order pursuant to the order passed by this Court on 24.07.1997 and, therefore, it is not open for the third respondent to initiate proceedings under the provisions of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short 'the

Act').

4. I am unable to accept the said contention because the earlier proceedings initiated by the second respondent are on the ground that the persons, in whose favor the assignment was made, were not the residents of Unikilli Village and the Government prohibited the assignment of Government land within 5 Kms belt of Kolleru lake, and the land in Unikilli village lies within 3 Kms from Kolleru lake.

5. I am of the opinion that merely because the second respondent has not taken any action for canceling the assignment made in favour of the petitioners, it cannot be said that it is not open for the third respondent to take action under the Act. Whatever may be the reason, the second respondent has not chosen to pass any orders canceling the assignment made in favour of the petitioners, but that does not mean that the petitioners are entitled to violate the provisions of the Act. The impugned notices go to show that the petitioners leased out the lands in question in contravention of Section 3(2) of the Act and, therefore, the third respondent in exercise of power conferred under Section 4(1)(a) of the Act, intends to resume the lands in question to the Government custody, after giving reasonable opportunity to the petitioners. As the impugned notices are only show cause notices,

I am unable to accept the contention of the petitioners that the third respondent has no power or authority to issue the impugned notices and the same are issued contrary to the earlier proceedings.

Accordingly, the writ petition is dismissed. However, it is observed that

if no final orders have been passed as on today, pursuant to the show cause notice dated 04.09.2007, the petitioners are permitted to file their explanations within ten days from today. There shall be no order as to costs.

V. ESWARAIAH, J

October 8, 2007
DSK